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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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NEIL WENDLAND, an individual,  
Plaintiff,  
v.  
PONDEROSA RESORT, LC, et al.,  
Defendants.

MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
AMEND  
Case No. 2:18-cv-00112-DN-BCW  
Judge David Nuffer  
Magistrate Judge Brooke Wells

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Plaintiff, Neil Wendland, moves the court for leave to amend his complaint under Federal Rule of Civil Procedure 15.<sup>1</sup> This matter is referred to the undersigned in accordance with 28 U.S.C. § 636(b)(1)(A).<sup>2</sup> The court will grant the motion.

Relevant to the instant motion are Federal Rule of Civil Procedure 15 and Local Rule 7-1. Rule 15(a)(2) provides that “[t]he court should freely give leave [to amend] when justice so requires.”<sup>3</sup> “The district court has ‘wide discretion to recognize a motion for leave to amend in the interest of a just, fair or early resolution of litigation.’”<sup>4</sup> “Refusing leave to amend is generally only justified upon a showing of undue delay, undue prejudice to the opposing party, bad faith or dilatory motive, failure to cure deficiencies by amendments previously allowed, or futility of amendment.”<sup>5</sup>

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<sup>1</sup> ECF No. 20.

<sup>2</sup> ECF No. 8.

<sup>3</sup> Fed. R. Civ. P. 15(a)(2).

<sup>4</sup> Bylin v. Billings, 568 F.3d 1224, 1229 (10th Cir. 2009) (quoting Calderon v. Kan. Dep’t of Soc. & Rehab. Servs., 181 F.3d 1180, 1187 (10th Cir. 1999)).

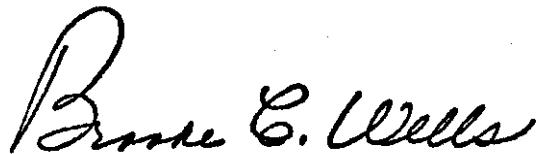
<sup>5</sup> Id. (quoting Frank v. U.S. West, Inc., 3 F.3d 1357, 1365 (10th Cir. 1993)).

Local Rule 7-1 sets forth the deadlines for responding to a motion. A memorandum opposing a motion for leave to amend “must be filed within fourteen (14) days after service of the motion or within such time as allowed by the court.”<sup>6</sup> “Failure to respond timely to a motion, ...., may result in the court’s granting the motion without further notice.”<sup>7</sup>

Here, Plaintiff filed the motion on November 30, 2018. To date there has been no response filed by Defendants and the time frame set forth in the Local Rules for doing so has passed. Moreover, there is nothing before the court indicating that leave to amend should not be granted. Therefore, Plaintiff’s Motion for Leave to Amend<sup>8</sup> is hereby GRANTED.

IT IS SO ORDERED.

DATED this 21 December 2018.



Brooke C. Wells  
Brooke C. Wells  
United States Magistrate Judge

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<sup>6</sup> DUCivR 7-1(b)(3)(B) (2018).

<sup>7</sup> *Id.* 7-1(d).

<sup>8</sup> ECF No. 20.